

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

HARTFORD FIRE INSURANCE CO.)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 03-12502 NMG
)	
EASTERN CONTRACTORS, INC.)	
)	
Defendant / Third Party Plaintiff,)	
)	
v.)	
)	
CITY OF LAWRENCE, CITY OF FALL)	
RIVER, and FREETOWN/LAKEVILLE)	
REGIONAL SCHOOL DISTRICT,)	
)	
Third Party Defendants.)	
)	

**THIRD-PARTY DEFENDANT, CITY OF LAWRENCE’S, MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56, Third Party Defendant / Third Party Counterclaimant, City of Lawrence (“Lawrence” or the “City”), hereby moves for summary judgment in its favor and against Defendant / Third Party Plaintiff, Eastern Contractors, Inc. (“Eastern”) on Counts I and II of Eastern’s Third-Party Complaint against Lawrence.

AS GROUNDS FOR ITS MOTION, Lawrence states that the pleadings in this action and the record established in discovery demonstrate that there is no genuine issue as to any material fact that Eastern did not encounter, or document the existence of, a differing site condition, and that Eastern failed to comply with the contractual and statutory notice and submission requirements applicable to extra work claims and Differing Site Condition claims.

AS FURTHER GROUNDS FOR ITS MOTION, Defendant relies upon its accompanying Memorandum of Law, Statement of Undisputed Material Facts, and the Affidavits of David E. Capaldo, Doreen M. Zankowski, Charles E. Schaub, Jr. and Chad L. Hershman (and attachments thereto).

WHEREFORE, Defendant hereby requests that this Honorable Court grant this Motion for Partial Summary Judgment against Third Party Plaintiff Eastern Contractors, Inc. on Counts I and II of Eastern's Third Party Complaint.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), Lawrence hereby requests an opportunity to make an oral argument on its Motion for Partial Summary Judgment because such argument is likely to assist the Court in deciding the Motion.

Respectfully Submitted,

Third-Party Defendant /
Third-Party Counterclaimant,
CITY OF LAWRENCE,

By its Attorneys,

/s/ Doreen M. Zankowski

Dated: September 15, 2006

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CERTIFICATE OF SERVICE

I, Doreen M. Zankowski, hereby certify that on this 15th day of September 2006, I caused to be served a copy of the foregoing document by facsimile and first class mail, postage pre-paid, to counsel of record in this matter.

/s/ Doreen M. Zankowski
